2/27/07

(12)

No. 06-618

In the Supreme Court of the United States

OFFICE OF SENATOR MARK DAYTON,

Appellant,

v.

BRAD HANSON,

Appellee.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

JOINT APPENDIX

JEAN M. MANNING*
Senate Chief Counsel for Employment
TOBY R. HYMAN
CLAUDIA A. KOSTEL
DAWN BENNETT-INGOLD
OFFICE OF SENATE CHIEF COUNSEL FOR EMPLOYMENT
P.O. Box 77053
Washington, D.C. 20013
Phone (202) 224-5424
Facsimile (202) 228-2557

Counsel for Appellant

DOUGLAS B. HURON*
RICHARD A. SALZMAN
HELLER, HURON, CHERTKOF, LERNER, SIMON & SALZMAN
1730 M Street, N.W.
Suite 412
Washington, D.C. 20036
Phone (202) 293-8090
Facsimile (202) 293-7110

Counsel for Appellee

* Counsel of Record

APPEAL DOCKETED NOVEMBER 3, 2006
JURISDICTION POSTPONED JANUARY 19, 2007

TABLE OF CONTENTS

Page

Relevant docket entries, United States District Court for the District of Columbia 1

Relevant docket entries, United States Court of Appeals for the District of Columbia Circuit 4

Notation, in accordance with the Clerk's Guide for Counsel, directing the Court to the place where certain opinions, orders, and judgments below appear 9

Complaint, filed May 29, 2003 10

Notation, in accordance with the Clerk's Guide for Counsel, directing the Court to the place where the Declaration of Marc Kimball and accompanying exhibits, filed in the United States District Court for the District of Columbia on September 12, 2003, appear 17

Declaration of Brad Hanson, filed in the United States District Court for the District of Columbia on October 3, 2003 18

Plaintiff's Stipulation to Accept Front Pay in Lieu of Reinstatement, filed in the United States District Court for the District of Columbia on October 30, 2003 20

Notation, in accordance with the Clerk's Guide for Counsel, directing the Court to the place where Appellant's notices of appeal to this Court, filed October 31, 2006, appear 23

Table of Contents—Continued: Page

Order of the United States Supreme Court, entered
January 19, 2007 24

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

03-CV-1149

BRAD HANSON
v.
OFFICE OF SENATOR
MARK DAYTON

RELEVANT DOCKET ENTRIES

DATE	#	DOCKET ENTRY
05/29/2003	1	COMPLAINT against OFFICE OF SENATOR MARK DAYTON (Filing fee $150.), filed by BRAD HANSON.(nmw,) (Entered: 05/30/2003)
		* * * * *
09/12/2003	12	MOTION to Dismiss *and Statement of Points and Authorities in Support of Its Motion to Dismiss* by OFFICE OF SENATOR MARK DAYTON. (Attachments: # 1 Exhibit A to Brief-Excerpts from Annals of Congress# 2 Declaration of Marc Kimball# 3 Exhibit 1 to Decl.-Plaintiff's May 2001 Self Evaluation# 4 Exhibit 2 to Decl.-Plaintiff's Winter 2001 Self

		Evaluation# 5 Exhibit 3 to Decl.-Memo w/recommendations for addressing ambulance reimbursement problems # 6 Exhibit 4 to Decl.-August 2001 Doyle article# 7 Exhibit 5 to Decl.-Announcement Legislation# 8 Proposed Order) (Manning, Jean) (Entered: 09/12/2003)
		* * * * *
10/03/2003	15	Memorandum in opposition to motion re 12 filed by BRAD HANSON. (Attachments: # 1 # 2)(Huron, Douglas) (Entered: 10/03/2003)
		* * * * *
10/20/2003	18	REPLY to opposition to motion re 12 *Motion to Dismiss* filed by OFFICE OF SENATOR MARK DAYTON. (Manning, Jean) (Entered: 10/20/2003)
10/30/2003	19	NOTICE by BRAD HANSON *of Stipulation to Accept Front Pay in Lieu of Reinstatement* (Salzman, Richard) (Entered: 10/30/2003)
		* * * * *
09/07/2004		MINUTE ORDER denying 12 Motion to Dismiss by OFFICE OF SENATOR MARK DAYTON. Signed by Judge Richard J. Leon on 09/07/2004. (lcrjl1,) (Entered: 09/07/2004)

* * * * *

09/21/2004	22	NOTICE OF APPEAL as to Order on Motion to Dismiss by OFFICE OF SENATOR MARK DAYTON. Filing fee $ 0.00. (rje,) (Entered: 09/22/2004)

* * * * *

10/31/2006	25	NOTICE OF APPEAL to the United States Supreme Court as to Minute Order on Motion to Dismiss by OFFICE OF SENATOR MARK DAYTON. Filing fee $ 0.00. Fee Status: No Fee Paid. Parties have been notified. (jf,) (Entered: 11/07/2006)

* * * * *

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

04-CV-5335

BRAD HANSON
v.
OFFICE OF SENATOR
MARK DAYTON

RELEVANT DOCKET ENTRIES

DATE	DOCKET ENTRY
9/24/04	CIVIL-US CASE docketed. Notice of Appeal filed by Appellant Off Senator Dayton. [850364-1] (jth) [04-5335]
	* * * * *
4/29/05	PER CURIAM ORDER, In Banc, filed [891498] that No. 04-5335, Hanson v. Dayton be removed from the court's 5/11/05 oral argument calendar [891498-1]. No. 04-5315, Fields v. Johnson and No. 04-5335, Hanson v. Dayton are to be heard together on a date in the next term by the court sitting en banc. The parties will be notified by separate order of any additional briefing and oral argument date. Before Judges Ginsburg, Edwards, Sentelle, Henderson, Randolph, Rogers, Tatel, Garland

and Roberts. [Entry date: 4/29/05] [04-5315, 04-5335] (lej) [04-5315 04-5335]

* * * * *

6/21/05 PER CURIAM ORDER, In Banc, filed [901450] that the parties and amici curiae while not otherwise limited, address the following issues in their briefs: (1) Whether the individual Speech or Debate Clause immunity of a Member of Congress Bars suit under the Congressional Accountability Act of 1995, 2 U.S.C. Sections 1301-1438, by a former high level aide against the Member's Office; and (2) Whether Browning v. Clerk, U.S. House of Representatives, 789 F.2d 923 (D.C. Cir. 1086) (holding that Speech or Debate Clause immunity extends to a Member's personnel decisions involving high level aides who assisted a Member in performing legislative acts) is still good law. See Gross v. Winter, 876 F.2d 165, 170 (D.C. Cir. 1989) (recognizing there "is questionability tension" between Forrester v. White, 484 U.S. 219 (1988) and Browning). See also Bastien v. Office of Senator Ben Nighthorse Campbell, 390 F.3d 1301, 1318 (10th Cir. 2004) (rejecting the approach adopted in Browning that Speech or Debate Clause immunity depends on whether the employee's duties were "integral to the legislative process"). Before Judges Ginsburg, Edwards, Sentelle, Henderson, Randolph, Rogers, Tatel, Garland, Roberts. [Entry Date: 6/21/05] [04-5315, 04-5335] (lej)
[04-5315 04-5335]

7/11/05 BRIEF filed by Appellant Off Senator Mark [906302-1]. Copies: 25. Certificate of personal service date 7/11/05. (sha) [04-5335]

7/11/05 JOINT APPENDIX filed by Appellant Off Senator Mark [906303-1]. Copies: 25. Certificate of personal service date 7/11/05. (sha) [04-5335]

7/11/05 ADDENDUM TO BRIEF lodged by Appellant Off Senator Mark [906305-1]. Copies: 25. Certificate of personal service date 7/11/05. (sha) [04-5335]

* * * * *

7/22/05 CLERK'S ORDER filed [907680] granting motion for leave to file addendum to appellant's brief filed by Off Senator Mark [906307-1] Directing Clerk to file the lodged addendum [906305-1]. [Entry Date: 7/22/05] (cwc) [04-5335]

* * * * *

8/12/05 BRIEF filed by Appellee Brad Hanson [912602-1]. Copies: 25. Certificate of service date 8/12/05. (mam) [04-5335]

9/2/05 REPLY BRIEF filed by Appellant The Office of Senator Mark Dayton [918601-1]. (Copies: 30). Certificate of service by hand delivery dated 9/2/05. (jth) [04-5335]

* * * * *

10/6/05 CLERK'S ORDER filed [923625] that these cases be set for oral argument on Wednesday, November 30, 2005, at 9:30 a.m. before the en banc court. [923625-1] [Entry Date: 10/6/05] [04-5315, 04-5335] (lej) [04-5315 04-5335]

* * * * *

11/30/05 ORAL ARGUMENT HELD before Ginsburg, Sentelle, Henderson, Randolph, Rogers, Tatel, Brown, Griffith . . (set) [04-5335]

12/5/05 LETTER filed by Appellee Brad Hanson pursuant to FRAP 28j advising of additional authorities [935951-1]. Certificate of service date 12/5/05. (cwc) [04-5335]

12/12/05 LETTER filed by Appellant Off Senator Mark in response to appellee's letter filed pursuant to FRAP 28j advising of additional authorities [937294-1]. Certificate of service date 12/12/05. (cwc) [04-5335]

* * * * *

8/18/06 JUDGMENT that the Speech or Debate Clause does not bar jurisdiction in these cases and the judgments are affirmed for the reasons in the accompanying opinion. Before Judges Ginsburg, Sentelle, Henderson, Randolph, Rogers, Tatel, Garland,* Brown, Griffith, Kavanaugh.* (Circuit Judges Garland and Kavanaugh did not participate) [Entry Date: 8/18/06] [04-5315, 04-5335] (mcm) [04-5315 04-5335]

8/18/06	IN BANC OPINION filed [986878] (28 pgs) for the Court by Judge Randolph, CONCURRING IN PART OPINION (3 pgs) filed by Judge Rogers, CONCURRING OPINION (5 pgs) filed by Tatel, CONCURRING OPINION (23 pgs) filed by Judge Brown [04-5315, 04-5335] (mcm) [04-5315 04-5335]

* * * * *

10/19/06	MANDATE ISSUED to Clerk, District Court [998741-1] (mcm) [04-5335]
10/31/06	NOTICE OF APPEAL TO THE UNITED STATES SUPREME COURT filed by Appellant Off Senator Mark [1003217-1]. Certificate of service date 10/31/06. (smc) [04-5335]

* * * * *

Notation Pursuant to Clerk's Guide for Counsel

The following opinion, judgment, and order have been omitted in printing this joint appendix because they appear at the following pages in the appendices to the Jurisdictional Statement.

Minute Order of the United States District Court for the District of Columbia, dated September 7, 2004 ..... 58a

Opinion of the United States Court of Appeals for the District of Columbia Circuit, dated August 18, 2006 ..... 1a

Judgment of the United States Court of Appeals for the District of Columbia Circuit, dated August 18, 2006 ..... 60a

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

BRAD HANSON 457 Upton Avenue South Minneapolis, MN 55405	)	
Plaintiff,	)	Case Number 1:03CV01149
v.	)	JUDGE: Richard J. Leon
OFFICE OF SENATOR MARK DAYTON SR-346, Russell Senate Office Building Washington, DC 20510	)	DECK TYPE: Employment Discrimination DATE STAMP: 05/29/2003
Defendant.	)	

[FILED: MAY 29, 2003]

COMPLAINT FOR RELIEF FROM UNLAWFUL EMPLOYMENT PRACTICES

1. Brad Hanson served with distinction in Mark Dayton's campaign for the Senate in 2000 and, after Senator Dayton was elected, as his Minnesota Office Director. The Senator often praised Hanson's work. But on July 3, 2002, Senator Dayton fired Hanson -- without warning -- after learning that he needed heart surgery that would require him to be out of the office. That was unlawful.

Jurisdiction

2. This is an action under the Congressional Accountability Act, 2 U.S.C. §§ 1301 et seq., seeking damages and other relief for violations of the Family and Medical Leave Act, 29 U.S.C. §§ 2611 et seq., the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., and the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq. This Court has jurisdiction under 2 U.S.C. § 1408(a). Venue lies in this District under 2 U.S.C. § 1404(2).

Parties

3. Plaintiff Brad Hanson is a lifelong resident of Minnesota. He has known Mark Dayton for many years, and their families have been friendly. Until his unlawful firing, Hanson was employed by the defendant Office of Senator Mark Dayton. Hanson is a "covered employee" under 2 U.S.C. § 1301(3).

4. Defendant Office of Senator Mark Dayton (the Office) is Senator Dayton's personal Senate office. The Office is plaintiff Hanson's "employing office" under 2 U.S.C. § 1301(9)(A).

Factual Background

5. Brad Hanson joined Mark Dayton's Senate campaign in July 2000. Hanson designed and ran an advocacy program, the Health Care Help Line, which offered assistance to people having difficulties with their health insurance carriers, HMO's or physicians. The program was extraordinarily effective, both substantively and as a political asset during the campaign. As a result, Senator-elect Dayton publicly praised Hanson on

election night and said that he wanted Hanson to be with him as long as he held office.

6. In January 2001, Hanson began working for the defendant Office of Senator Mark Dayton, at an annual salary of $45,000. Hanson's title was State Office Manager, and he was instrumental in setting up the Senator's three local offices in Minnesota, in Ft. Snelling, Thief River Falls and Biwabik. Hanson also oversaw the transition of the Health Care Help Line to Senator Dayton's personal Senate office. Hanson's heavy workload entailed 60-hour weeks for several months and also considerable overtime thereafter. He was never paid for this overtime, however, even though his job duties did not qualify him as an employee who was exempt from overtime payments under the Fair Labor Standards Act.

7. Hanson worked in Senator Dayton's Ft. Snelling office. On several occasions, the Senator complimented him for his work, and he was often asked to handle delicate or thorny issues. Hanson's effectiveness was recognized in January 2002 when he received a salary increase of $5,000, as well as a bonus.

8. Early in 2002, Hanson began experiencing cardiac arrhythmia. He consulted a physician, who advised him that a surgical procedure, called a coronary ablation, was required. The procedure would only involve a short hospitalization, but a recovery period of two to three weeks would likely be needed.

9. Hanson wanted to tell Senator Dayton personally about his need for this operation, and he scheduled a brief meeting with the Senator on July 3, 2002 when he was going to be in the Ft. Snelling office where Hanson worked. Before July 3, Hanson told other staff members about his need for heart surgery.

10. Hanson met with Senator Dayton at the Ft. Snelling office on July 3, 2002, as scheduled. The meeting had not gone on for more than five minutes when the Senator abruptly told Hanson, "You're done." He did not explain why. A short time later, Senator Dayton informed the staff in the Ft. Snelling office that Hanson was leaving. Again, he gave no explanation.

11. At the meeting on July 3, 2002, Senator Dayton told Hanson that he should no longer report to the office but should instead go on medical leave. On July 17 Matt McGowan, Senator Dayton's Washington Office Manager, called Hanson at home and informed him that he would be terminated as of September 30. Hanson's last day on the payroll was September 30, 2002.

12. Hanson's heart surgery was performed following his termination from the payroll. The operation was successful, and Hanson fully recovered.

13. Before his summary firing on July 3, 2002, Hanson was given no warning that his job was in jeopardy. On the contrary, his work had been praised, and there was no basis for the termination. Senator Dayton fired Hanson because he needed to be out of the office to recover from heart surgery, in violation of the Family and Medical Leave Act, and because the Senator erroneously perceived Hanson to be disabled, in violation of the Americans with Disabilities Act. In addition, the failure to compensate Hanson for the overtime he worked violated the Fair Labor Standards Act.

14. The actions of Senator Dayton as described herein are the actions of the defendant Office. The Office's conduct has caused plaintiff Hanson to suffer both monetary and non-monetary losses. Hanson's monetary losses include loss of salary and other compensation, both past and future, and loss

of overtime payments. His non-monetary losses include emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life.

15. All prerequisites to suit under the Congressional Accountability Act have been satisfied. In particular, plaintiff Hanson has completed both counseling under 2 U.S.C. § 1402 and mediation under 2 U.S.C. § 1403.

COUNT ONE
FAMILY AND MEDICAL LEAVE ACT

16. Paragraphs 1-15 are realleged.

17. Plaintiff Hanson is an "eligible employee" under the Family and Medical Leave Act, as defined in 2 U.S.C. § 1312(a)(2)(B). The Office's conduct as described herein, including the firing of plaintiff Hanson, constituted a violation of the Family and Medical Leave Act, as applied to Congress by 2 U.S.C. §§ 1302(a)(5), 1312.

COUNT TWO
AMERICANS WITH DISABILITIES ACT

18. Paragraphs 1-15 are realleged.

19. The Office's conduct as described herein, including the firing of plaintiff Hanson, constituted a violation of the Americans with Disabilities Act, as applied to Congress by 2 U.S.C. §§ 1302(a)(3), 1311(a)(3), (b)(3).

COUNT THREE
FAIR LABOR STANDARDS ACT

20. Paragraphs 1-15 are realleged.

21. The Office's conduct as described herein, including the failure to pay plaintiff Hanson for working overtime, constituted a violation of the Fair Labor Standards Act, as applied to Congress by 2 U.S.C. §§ 1302(a)(1), 1313.

REQUEST FOR RELIEF

Plaintiff requests that this Court:

1) reinstate plaintiff in his position with the Office, together with full back pay and related benefits, or alternatively, award plaintiff front pay in lieu of reinstatement, together with full back pay and related benefits;

2) award plaintiff liquidated damages, as authorized by the Family and Medical Leave Act and the Fair Labor Standards Act;

3) award plaintiff compensatory damages, as authorized by 42 U.S.C. § 1981a for violations of the Americans with Disabilities Act;

4) enjoin defendant from retaliating against plaintiff for pursuing this action;

5) award plaintiff his costs and reasonable attorneys' fees;

6) award plaintiff prejudgment interest on all monetary sums awarded;

7) award such other relief as the Court deems just.

JURY DEMAND

Plaintiff requests trial by jury.

/s/ Richard Salzman
Richard A. Salzman 422497
Douglas B. Huron 89326
HELLER, HURON, CHERTKOF
LERNER, SIMON & SALZMAN
1730 M Street, NW
Suite 412
Washington, DC 20036
(202) 293-8090

Attorneys for plaintiff

Notation Pursuant to Clerk's Guide for Counsel

The following declaration and accompanying exhibits have been omitted in printing this joint appendix because they appear at the following pages in the appendices to the Jurisdictional Statement.

Declaration of Marc Kimball, dated
September 10, 2003 ..... 66a

Exhibit 1 to Declaration - Hanson's May 2001
Self Evaluation 74a

Exhibit 2 to Declaration - Hanson's Winter 2001
Self Evaluation 78a

Exhibit 3 to Declaration - Memorandum Re: Ambulance
Problems in Minnesota 82a

Exhibit 4 to Declaration - August 2001 Article
by O.J. Doyle - Bill Announcement 87a

Exhibit 5 to Declaration - August 2001 Announcement
of Ambulance Legislation 88a

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

BRAD HANSON	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 03-1149
	)	(RJL)
OFFICE OF SENATOR	)	
MARK DAYTON	)	
	)	
Defendant.	)	

DECLARATION OF BRAD HANSON

1. I joined Mark Dayton's Senate campaign in July 2000. I designed and ran an advocacy program, the Health Care Help Line, which offered assistance to people having difficulties with their health insurance carriers, HMO's or physicians.

2. In January 2001, I began working as Senator Dayton's State Office Manager in Minnesota. I set up the Senator's three offices in the state, in Ft. Snelling, Thief River Falls and Biwabik, and I oversaw the transition of the Health Care Help Line to the Senate office.

3. In the first quarter of 2001, about 90 percent of my time was spent on administrative matters in connection with setting up the Senator's three offices in Minnesota. By May 2001, when I filled out the job evaluation form that is attached to the motion to dismiss filed by the defendant Office of

Senator Dayton, about one-third of my time was devoted to administrative work as State Office Manager, and about two-thirds relating to constituent services, mostly involving the Health Care Help Line. About a year later, in the spring of 2002, Marc Kimball gave some of my routine administrative duties (such as ordering supplies) to another employee, so I could devote more of my time to the Health Care Help Line.

4. I have read the description of my duties in Senator Dayton's motion to dismiss. That description exaggerates my role in legislation. I was never a legislative aide and rarely participated in meetings in which legislation was discussed. Overall, I estimate that I did not spend more than five percent of my time on the type of legislative duties described in Senator Dayton's motion.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

Date: 10/2/03 /s/ Brad Hanson

Brad Hanson

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

BRAD HANSON	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 03-1149
	)	(RJL)
OFFICE OF SENATOR	)	
MARK DAYTON	)	
	)	
Defendant.	)	

PLAINTIFF'S STIPULATION TO ACCEPT FRONT PAY IN LIEU OF REINSTATEMENT

In its reply brief in support of its motion to dismiss, the Office of Senator Mark Dayton (Senator Dayton) says that plaintiff Brad Hanson would be entitled to reinstatement were he to prevail, but that reinstatement would not be an appropriate remedy here. Therefore, the Senator argues, Hanson's case should be thrown out. See Reply at 14.

This argument is a non sequitur and is also flawed in other respects. Even in the private sector, a plaintiff who is unlawfully fired does not have an automatic right to reinstatement. Rather he is entitled to be made "whole." Albemarle Paper Co. v. Moody, 422 U.S. 405, 418 (1975) ("[i]t is also the purpose of Title VII to make persons whole for injuries suffered on account of unlawful employment discrimination"). "Make whole" relief may, in the court's discretion, include reinstatement. See § 706(g) of Title VII,

42 U.S.C. § 2000e-5(g). But "[c]ourts [have] recognized that reinstatement [is] not always a viable option, and that an award of front pay as a substitute for reinstatement in such cases [is] a necessary part of the 'make whole' relief mandated by Congress and by this Court in Albemarle." Pollard v. E.I. du Pont de Nemours & Co., 532 U.S. 843, 850 (2001).

In Pollard, the Supreme Court noted approvingly that "the federal courts consistently have construed § 706(g) as authorizing front pay awards in lieu of reinstatement." Id. at 853 n.3. And the Court observed that courts had, among other circumstances, found "front pay . . . appropriate given substantial animosity between parties where 'the parties' relationship was not likely to improve, and the nature of the business required a high degree of mutual trust and confidence.' " Id. at 850 (citation omitted). This is exactly the situation posited by Senator Dayton.[1]

Senator Dayton's argument on reinstatement does not consider the range of remedies available to someone who was unlawfully fired. In his complaint, Hanson asked that the Court "reinstate plaintiff in his position with the Office, together with full back pay and related benefits, **or alternatively, award plaintiff front pay in lieu of reinstatement**, together with full back pay and related benefits" (emphasis added). In order to

---

[1] Senator Dayton attempts to focus on one provision of the Congressional Accountability Act -- § 413, 2 U.S.C. § 1413 -- in isolation. But Pollard also held that "we must not analyze one term of [a statute] in isolation. See Gade v. National Solid Wastes Management Assn., 505 U.S. 88, 99 (1992) (' "[W]e must not be guided by a single sentence or member of a sentence, but look to the provisions of the whole law" ')." 532 U.S. at 852.

avoid litigation over a non-issue, Brad Hanson stipulates that -- should he prevail on his challenge to his firings -- he will accept front pay in lieu of reinstatement.

s/
Douglas B. Huron 89326
Richard A. Salzman 422497
Tammany M. Kramer 483146
HELLER, HURON, CHERTKOF
LERNER, SIMON & SALZMAN
1730 M Street, NW
Suite 412
Washington, DC 20036
(202) 293-8090

Attorneys for plaintiff

Notation Pursuant to Clerk's Guide for Counsel

The following notices of appeal to this Court have been omitted in printing this joint appendix because they appear at the following pages in the appendices to the Jurisdictional Statement.

Appellant's Notice of Appeal to the United States Supreme Court, filed October 31, 2006, in the United States Court of Appeals for the District of Columbia Circuit 90a

Notice of Appeal to the United States Supreme Court, filed October 31, 2006, in the United States District Court for the District of Columbia 93a

Order of the United States Supreme Court
Entered on January 19, 2007

06-618 OFFICE OF SENATOR MARK DAYTON V. HANSON, BRAD

Further consideration of the question of jurisdiction is postponed to the hearing of the case on the merits. In addition to the Question presented by the statement as to jurisdiction, counsel are directed to brief and argue the following Questions: 1) Was the Office of Senator Mark Dayton entitled to appeal the judgment of the Court of Appeals for the District of Columbia Circuit directly to this Court? 2) Was this case rendered moot by the expiration of the term of office of Senator Dayton? The Chief Justice took no part in the consideration or decision of this case.